

**NCSL STANDING COMMITTEE ON
HEALTH AND HUMAN SERVICES**

POLICY DIRECTIVES AND RESOLUTIONS

2022 NCSL Legislative Summit

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1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: AGING SERVICES (OLDER AMERICANS ACT)**

3 **TYPE: DIRECTIVE**

4 ~~The Administration on Aging and the programs authorized and funded by the Older~~
5 ~~Americans Act are extremely important to the states, their senior citizens, and their~~
6 ~~families.~~ The National Conference of State Legislatures (NCSL) strongly supports the
7 Older Americans Act programs and ~~believes that~~ the services funded through this act,
8 ~~should be both cost effective and responsive to the special needs of the elderly.~~ NCSL
9 appreciates the support of Congress and the Administration for the Older Americans Act
10 (OAA) and the National Family Caregiver Support Program.

11 ~~Recognizing the challenges our country faces in providing services for the increasing~~
12 ~~number of elderly citizens,~~ NCSL urges Congress to:

13 • ~~continue its support for the programs of the OAA by appropriating appropriate~~
14 ~~sufficient funding for them to~~ meet the growing demands for the OAA programs,
15 especially the National Family Caregiver Support Program.;

16 •

17 • ~~provide states~~ NCSL supports the National Family Caregiver Support program,
18 ~~which recognizes the need to support both those caring for older individuals and~~
19 ~~older individuals caring for children.~~ States must be given the flexibility to
20 establish standards ~~in this program~~ and decide how program funds will be
21 distributed.;

22 •

23 • ~~NCSL supports increased efforts in the reauthorized Act to ensure that Older~~
24 ~~Americans Act~~ OAA programs ~~do~~ reach low-income, minority and rural elderly
25 households.;

26 • increase effort to ~~and to~~ inform the most eligible about services available to them
27 under the ~~Older Americans Act~~ OAA and other state and federal programs.;

- 28 • ~~The~~strengthen the authority of state government through designated State Units
29 on Aging ~~should be strengthened~~ to ensure that service funds under the Act are
30 used to support independence in older populations and the most vulnerable
31 members of the population, the very old, the frail, the isolated, and limited
32 English-speaking individuals, with particular attention to low-income minority
33 persons; ~~and~~.
- 34 • provide ~~S~~states ~~must have the~~ the authority to distribute ~~these~~ funds based on
35 their own criteria.

36 NCSL urges Congress to provide states

37 ~~NCSL believes that states should continue to be afforded considerable ff~~flexibility in the
38 administration of the OAA; and the authority to:

- 39 • ~~NCSL supports permitting states to~~ transfer funds between the nutrition
40 program and the social services program according to a state's needs;
- 41 • ~~and~~ to transfer funds between congregate and home delivered meals; and
- 42 • ~~States should also continue to be able to~~ determine the type and
43 circumstances under which if Area Agencies on Aging (AAA)'s ~~should can~~
44 directly provide services ~~and to determine which services AAA's can provide~~.

45 NCSL supports ~~efforts to put~~ additional resources intofor the ombudsman program. ~~In~~
46 ~~addition, NCSL supports Congressional proposals to fund programs on elder abuse,~~
47 ~~home care, and programs to provide special assistance to the elderly. Provisions should~~
48 ~~be developed which strengthen the capacity and expand the resources of State Units on~~
49 ~~Aging and Area Agencies on Aging. This is critical on a wide range of elder rights~~
50 ~~issues: quality of long term care, elder abuse, consumer protection, guardianship, age~~
51 ~~discrimination, and beneficiary rights in entitlement programs. NCSL supports the~~
52 ~~importance of nutrition education and counseling for seniors, which recognizes the~~
53 ~~unique needs of the elderly.~~

54 NCSL believes that participants with incomes below 125 percent federally established
55 level of poverty, should not be subject to cost sharing. Fees collected through this

56 mechanism should provide for expanded services and increased availability of services
57 to those elderly with the greatest economic and social need. This will also enhance the
58 coordination and equity between OAA, the Social Services Block Grant, and state-
59 financed programs that are often funded on a sliding fee scale.

60 Senior Community Service Employment Program

61 ~~Finally,~~ NCSL ~~continues to ss~~ supports the Senior Community Service Employment
62 Program ~~(SCSEP)~~. NCSL calls for increased cooperation between the states and the
63 national contractors. NCSL supports ~~C~~ congressional proposals to provide states and
64 national contractors more flexibility on administrative costs while keeping these costs to
65 a minimum.

66

67 **Federal Policies on Aging**

68 NCSL urges ~~that Congress~~ Congress to:

- 69 (1) preserve the financial integrity of the Social Security system;
- 70 (2) eliminate all forms of age discrimination against older workers;
- 71 (3) provide funds for direct services for the elderly;
- 72 (4) fund the development of integrated, coordinated, community-based continued
73 care systems to help prevent the unnecessary institutionalization of the elderly;
- 74 and
- 75 (5) provide additional support for gerontological research, education and training;
- 76 and
- 77 ~~(6) and ensure the flexibility for states to use TANF funds to support programs~~
78 ~~that serve grandparents raising grandchildren.~~

79

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: CHILD CARE**

3 **TYPE: DIRECTIVE**

4 NCSL urges Congress to continue its support of state initiatives ~~and creative~~
5 ~~approaches in to~~ offering high-quality and safe child care. In partnership, ~~the~~ state and
6 federal governments can address the wide spectrum of needs for child care ~~in the~~
7 ~~community~~ offered in varied delivery settings while ensuring parent choice, quality and
8 affordability.

9 **Child Care Development Block Grant (CCDBG)**

10 NCSL ~~strongly~~ supports ~~full funding for~~ the Child Care Development Block Grant Fund
11 (CCDBG) program, which serves as the main source of federal funding dedicated
12 primarily to child care subsidies for low-income working families and parents engaged in
13 job training or other educational opportunities.

14 ~~As child care needs vary in the states, NCSL opposes restrictive CCDF regulations that~~
15 ~~restrain state autonomy in directing the use of funds, and proposed changes to the~~
16 ~~CCDBG that include additional mandates.~~

17 In a diverse ~~varied~~ child care marketplace, state legislators are faced with the demands
18 of directing CCDBG funding where it is most needed to ensure the availability of high-
19 quality and affordable child care:

- 20 ▪ enabling ~~welfare families receiving public assistance recipients~~ on wait lists to
21 gain employment,
- 22 ▪ ensuring that former ~~welfare recipients~~ families on public assistance become
23 economically stable ~~do not return to the welfare rolls,~~
- 24 ▪ meeting the special needs of children with disabilities,
- 25 ▪ providing care for infants and older children in after-school care, and
26 ▪ ~~ensuring access to care for children of parents who work off-shift and non-~~
27 traditional hours traditional and non-traditional hours.

~~NCSL urges Congress and the U.S. Department of Health and Human Services (HHS) to maintain and support state flexibility whenas they examine and revise the CCDBG. In addition, NCSL opposes earmarking CCDBG increases in funding as they would reduce state flexibility, which is crucial to state innovation. The portion of unobligated CCDBG funds should remain consistent with congressional intent and leave the use of those funds to the discretion of the state for their CCDBG programs. NCSL urges the federal government to not withhold funding from states that choose to operate their programs under stricter standards than the federal standards.~~

NCSL supports the following program flexibility options for states:

- ~~O~~offering differential payment rates for providers of higher quality services or who serve children with special needs;
- ~~P~~permitting states discretion to govern the establishment of rules on the registration of unlicensed providers;
- ~~A~~allowing parental choice of providers within a state regulatory framework;
- ~~P~~permitting the inclusion of quality supply and system building activities as acceptable expenditures in addition to reimbursement;
- ~~P~~permitting states to make child care services accessible to all individuals' subject to ~~welfare-to-work programs~~ work requirements with federal funding support; and
- ~~P~~providing states the option to extend the age of eligible children beyond age 13, especially children with special needs, to give states more flexibility to use these funds for out of school time care for older adolescents.
- allowing states to use TANF funds to support programs that serve grandparents raising grandchildren.

Funding

NCSL urges Congress to continue its commitment to support the CCDBG program at sufficient levels to complement ongoing state efforts to provide high-quality child care services to ~~welfare recipients and~~ low- and moderate-income working families. ~~Support of the CCDBG program also strengthens state efforts to employ welfare beneficiaries~~

58 ~~under TANF work requirements, which can only be enforced if access to child care is~~
59 ~~ensured. For these reasons NCSL believes that the preponderance of CCDBG grant~~
60 ~~funds must remain an entitlement to states.~~

61 NCSL opposes earmarking CCDBG increases in funding as they would reduce state
62 flexibility, which is crucial to state innovation. The portion of unobligated CCDBG funds
63 should remain consistent with congressional intent and leave the use of those funds to
64 the discretion of the state for their CCDBG programs. NCSL urges the federal
65 government to not withhold funding from states that choose to operate their programs
66 under stricter standards than the federal standards.

67

68 NCSL supports the portion of the CCDBG that is funded by discretionary dollars and
69 subject to the congressional appropriations process. -However, any additional funds for
70 the CCDBG ~~should~~must be an entitlement to the states.

71 Child care is a critical component that enables states to meet increased requirements
72 for work participation, and imposing a state match may serve as a barrier for some
73 states in accessing badly needed child care funds. Maintenance of effort (MOE)
74 requirements also make it difficult for states to take advantage of federal funds when
75 they face difficult decisions about how to fund all human services programs. . NCSL
76 supports maintenance of effort flexibility.

77 If an administrative cap is imposed, it should be limited to a strict definition of
78 administrative funds. Services such as inspections, licensing, automation, eligibility
79 determination, resource and referral, case management, training, and rate setting are
80 required and critical to the provision of quality services and should be defined as
81 services. NCSL urges the federal government to provide technical assistance to states
82 to improve the coordination and financing of child care programs.

83 **TANF and Child Care**

84 NCSL strongly supports child care as an eligible ~~legitimate~~ use of the Federal TANF
85 block grant and state maintenance of effort (MOE) funds. NCSL supports state options

86 to transfer up to 30% ~~percent~~ of their federal TANF block grant allotments to the
87 CCDBG. We urge the administration and the Congress to eliminate the distinction
88 between how child care is treated for working families based on funding stream.

89 ~~NCSL appreciates that HHS signaled the importance of child care for working families~~
90 ~~by not considering it assistance, thus allowing families to have this vital service without~~
91 ~~having it count against their time-limited assistance.~~ NCSL urges the federal
92 government to reconsider the distinction in TANF regulations that counts child care and
93 other work supports for the unemployed as assistance. ~~This will be particularly~~
94 ~~important for families who receive Unemployment Insurance benefits.~~

95 NCSL supports ~~these~~ families having a reliable source of child care support while they
96 look for another job rather than offering an incentive for them to return to cash
97 assistance. ~~Having this child care support count toward the time limits also raises equity~~
98 ~~issues and confusion since different rules apply to different funding sources.~~
99 ~~Additionally, research suggests that having a consistent child care provider is important~~
100 ~~to children's early development.~~

101 **Standards**

102 NCSL ~~believes that states~~supports states should retaining regulatory, licensure, and
103 operational oversight of child care facilities. Any regulatory requirements imposed by the
104 federal government should serve as a floor and not a ceiling, and not restrict state
105 flexibility in determining how child care facilities should function ~~in their jurisdictions.~~
106 NCSL urges ~~the~~ federal agencies to support state efforts through guidance and
107 technical assistance, particularly in regard to building a child care workforce, provider
108 education, development of models for special needs populations, and the homeless.

109 **Taxes and Benefits**

110 NCSL supports options through use of federal and state tax incentives that can
111 encourage creation of child care programs and help parents better afford child care
112 services. NCSL supports:

- 113 • Tax credits for employers that establish, operate, supply and/or support child
114 care programs,
- 115 • Public or private incentives for a child's primary caregiver to have the option to
116 stay at home during the child's early developing stages;
- 117 • Tax credits for taxpayers with dependents under compulsory school ~~age~~;
- 118 • Child care benefits as an option in employer-sponsored cafeteria plans, including
119 pre-tax flexible spending accounts;
- 120 • Retention of the Dependent Care Tax Credit as it exists under current law; and
- 121 • Tax incentives to encourage individuals to establish and/or operate child care
122 programs;
- 123 • Options that enable states to create or allow the development of public~~-~~private
124 partnerships to strengthen the child care system.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: FOOD & DRUG ADMINISTRATION'S REGULATION**
3 **HEALTH PROGRAMS OF OUR NATION'S DRUG**
4 **SUPPLY**

5 **TYPE: DIRECTIVE**

6 ~~The Food and Drug Administration Safety and Innovation Act~~

7 The National Conference of State Legislatures (NCSL) supports efforts to improve the
8 safety, ~~and~~ quality, access to and affordability of our nation's drug supply including ~~the~~
9 ~~FDA Safety and Innovation Act which:~~ actions such as:

- 10 ▪ Enhances the safety of the drug supply chain,
- 11 ▪ Promoting innovation by ~~revises incentives to~~ drug manufacturers to develop
12 new effective pharmacotherapies; and
- 13 ~~▪ Permanently authorizes the Best Pharmaceuticals for Children Act (BPCA)~~
14 ~~and the Pediatric Research Equity Act (PREA);~~
- 15 ▪ Taking ~~es~~ initial steps to address drug shortages; ~~and~~
- 16 ~~▪ Provides for expedited development and review of drugs for the treatment of~~
17 ~~serious or life-threatening conditions.~~

18
19 While NCSL supports the adoption of national standards, federal action should not
20 preempt state governments from enacting stricter or stronger measures within their
21 respective jurisdictions. In addition, federal standards should not create an
22 administrative burden on state regulatory agencies. The FDA should prioritize initiatives
23 that ensure the effectiveness and quality of any drugs sold in the United States.

24
25 **Regulation of Internet Pharmacy—**

26 NCSL supports Congressional actions ~~through the Ryan Haight Online Pharmacy~~
27 ~~Consumer Protection Act to:~~ to:

- 28 ▪ Establish disclosure standards for internet pharmacies,

- 29 ▪ Prohibit dispensing of prescription drugs over the internet to persons who have
30 not been ~~seen by a physician~~prescribed a drug by a licensed health care
31 prescriber, and
32 ▪ Authorize state attorneys ~~generals~~ to shut down non-complying pharmacy
33 sites by using the federal court system.

34

35 ~~Unfortunately, NCSL believes the provisions of the Act have not been sufficient to~~
36 ~~control rogue websites and urges Congress and the Administration~~NCSL urges the
37 federal government to increase efforts to prosecute organizations in violation of the law

38 **Importing Prescription Drugs–**

39 NCSL ~~supports federal efforts to contain costs and expand access to safe and effective~~
40 ~~pharmaceuticals by exploring the feasibility of importing prescription drugs from other~~
41 ~~countries.~~ believes that it should be a national priority to expand access to affordable
42 prescription drugs. ~~NCSL supports efforts to explore the feasibility of importing~~
43 ~~prescription drugs from other countries to move toward goal of containing costs and~~
44 ~~improving access to safe, and effective pharmaceuticals.~~

45

46 **Personal Use Policy–**

47 Although FDA guidance has been issued, the current federal policy on drug importation
48 is still unclear. ~~NCSL is opposed to the “criminalization” of drug importation and the~~
49 ~~effect it may have on individuals with limited options. The current federal policy on drug~~
50 ~~importation is confusing at best.~~ NCSL urges the FDA to clarify its “personal use” policy
51 and how the policy is to be enforced. ~~Ultimately if it is determined that drug importation~~
52 ~~is not the right approach, NCSL urges Congress to make it a priority to explore ways to:~~
53 ~~(1) increase the number of individuals with health insurance, thereby increasing access~~
54 ~~to prescription drug coverage; and (2) increase the affordability of prescription drugs.~~

55

56

57 **Regulation of Compounding Pharmacy**

58 NCSL urges the FDA to work closely with state legislators, state public health officials,
59 state boards of pharmacy and other important state and local officials, and providers
60 and industry representatives to develop procedures and systems that retain state
61 regulatory authority where appropriate and that will improve the overall safety of the
62 nation's pharmaceutical supply chain, and the regulation of compounding pharmacies.

63

64 ~~Safety and Quality of the National Drug Supply~~

65 ~~NCSL believes state drug pedigree laws should not be preempted unless, a national~~
66 ~~standard is adopted that provides at least the same level of protections as the state~~
67 ~~laws. The FDA should assign a high priority to initiatives to both identify quantities and~~
68 ~~ensure the quality of any drugs entering the United States that are then remanufactured~~
69 ~~for retail sale to consumers here. The potential for human error in processing acts of~~
70 ~~terrorism, and the serious consequences of either call for a vigorous and vigilant~~
71 ~~response by the federal government.~~

72 ~~Access to Affordable Prescription Drugs~~

73 **State Prescription Drug Monitoring Programs**

74 NCSL supports the five-year reauthorization of the National All Schedules Prescription
75 Electronic Reporting Act (NASPER) adopted in the Comprehensive Addiction and
76 Recovery Act (CARA). NCSL is particularly interested in continued discussions to
77 increase the effectiveness and interoperability of State Prescription Drug Monitoring
78 Programs (PDMPs) and looks forward to working with federal partners to expand and
79 improve the programs.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: NUTRITIONAL PROGRAMS AND ASSISTANCE**

3 **TYPE: DIRECTIVE**

4

5 The National Conference of State Legislatures (NCSL) supports the state-federal
6 partnership to provide nutrition assistance to those in need. State legislators are
7 concerned about the vast numbers of hungry individuals, and particularly the severity of
8 hunger among childhood and aging populations. The Supplemental Nutrition Assistance
9 Program (SNAP), The Emergency Food Assistance Program (TEFAP), the Special
10 Supplemental Nutrition Program for Women, Infants, and Children (WIC), and Child
11 Nutrition programs alleviate and prevent hunger and enable families to improve their
12 health and be more productive at school and at work.

13

14 **SNAP: Supplemental Nutrition Assistance Program/Food Stamps**

15 NCSL urges continued federal funding of the SNAP program at levels sufficient to
16 provide assistance to all that are eligible or in need due to the rising cost of food. NCSL
17 also urges the administration and Congress to continue to make SNAP and Temporary
18 Assistance to Needy Families (TANF) block grants more compatible through the broad-
19 based categorical eligibility option. This is a policy option for states by which households
20 may become categorically eligible for SNAP because they qualify for Temporary
21 Assistance for Needy Families or state maintenance of effort-funded benefits. In times
22 of economic hardship, SNAP, along with other nutrition assistance programs, offers a
23 vital safety net for low-income Americans.

24

25 NCSL opposes proposals that would impose costly administrative burdens and un-
26 funded mandates on state governments, or remove state flexibility that is critical to cost-
27 effective administration of SNAP.

28

29 NCSL supports U.S. Department of Agriculture (USDA) initiatives to provide
30 administrative flexibility through the waiver process by allowing states to implement
31 administrative efficiencies such as telephone interviews, utilize Combined Application
32 projects, simplified application forms, the creation of mobile-friendly software for SNAP
33 recipients, and develop partnerships with community stakeholder organizations to
34 improve quality, efficiencies, and overall nutrition access. NCSL supports the additional
35 waivers that provided increased administrative flexibility during the Covid-19a public
36 health emergency.

37

38 **SNAP Benefits and Program Design**

39 NCSL recommends that the administration and Congress incorporate the following
40 issues regarding SNAP benefits and program access into future legislative and
41 regulatory action:

- 42 • Elimination of the annually indexed caps on excess shelter deductions
43 to allow families to deduct high shelter costs;
- 44 • ~~Adoption of the formula that each October sets the benefits for food~~
45 ~~price inflation to reflect the Thrifty Food Plan for the previous June;~~
- 46 • Exclusion of the first \$150 a month by a non-custodial parent paid as
47 child support from consideration as income in determining the SNAP
48 allotment;
- 49 • ~~Reevaluation~~ Elimination of the rules concerning the value of a vehicle
50 that a recipient may own and still receive SNAP benefits;
- 51 • Federal support and technical assistance for state outreach;
- 52 • Enhancement and simplification of application and eligibility
53 determination procedures through supporting Web-based screening
54 tools, permitting seniors and the disabled to apply at Social Security
55 offices, reduced length application forms, and allowing use of joint
56 applications;
- 57 • Continuation of state options regarding child support cooperation as a
58 condition of eligibility for SNAP. NCSL supports the elimination of the

59 fee for SNAP recipients' child support collection efforts as a further
60 incentive toward child support enforcement participation.

61 • ~~C~~continuation of state options to disqualify for SNAP eligible
62 individuals who fail to cooperate with child support enforcement
63 authorities or who are in arrears on child support obligation. NCSL
64 supports this option and opposes changes that would mandate these
65 actions:

66 • permit the promotion and acceptance of SNAP at farmers' markets and
67 other non-grocery store, produce-oriented venues, for example: from a
68 small farmer; and-

69 • Continue to support current state options regarding categorical
70 eligibility and "heat and eat."

71

72

73 **SNAP and Legal Immigrants**

74 NCSL supports SNAP eligibility for legal immigrant children and families. NCSL
75 commends USDA's outreach efforts to assist eligible legal immigrants, including their
76 work to translate materials into more than 34 languages. NCSL continues to support
77 restoring eligibility to the small number of legal immigrants who were not covered under
78 previous restoration. NCSL urges the administration and Congress to include state
79 lawmakers in making decisions that would alter the eligibility status for any category of
80 immigrants legally present in the United States.

81

82 **SNAP Employment and Training Program (SNAP E&T)**

83 NCSL supports the objectives of self-sufficiency promoted by the SNAP Employment
84 and Training program (SNAP E&T), and will work with the federal government toward
85 that goal. NCSL urges the administration and Congress to allow states flexibility to
86 create, fund, and integrate SNAP E&T programs with similar state programs, particularly
87 TANF and the Workforce Innovation and Opportunity Act (WIOA). NCSL also supports
88 program simplification and coordination between TANF and ~~the~~ SNAP.

89 In addition, NCSL appreciates the USDA's willingness to grant states waivers of the
90 three-month ~~time limit for non-working able-bodied adults without dependents rule~~ in
91 areas impacted by high unemployment and USDA's technical assistance to states.

92

93 **SNAP Program Quality Control (QC)/Judicial Waiver**

94 NCSL supports the original intent of quality control, which is to provide states with a
95 management tool to identify problems in public assistance administration and to
96 facilitate corrective actions. However, many problems in the current system have been
97 documented, including statistical flaws and the levying of excessive financial penalties
98 on states. NCSL strongly supports the move away from a system based on error rates
99 to one that awards bonuses for accuracy. NCSL urges the federal government to
100 improve systems related to appeals of waiver decisions and reinvestment of claims,
101 including outcome measures of program goals.

102

103 NCSL supports efforts to focus on program measurement and evaluation through
104 positive incentives and urges Congress to reexamine funding levels. State legislators
105 urge the USDA to continue to settle QC claims through state reinvestment in program
106 improvement.

107

108 **Electronic Benefit Transfer and Automated Systems (EBT)**

109 NCSL supports ~~the regulation establishing~~ the current implementation of EBT systems
110 ~~as a normal administrative option for states~~, and supports ~~the widespread interest and~~
111 ~~planning for SNAP EBT implementation nationwide and~~ allowing cards to be used for
112 multiple programs, such as WIC.

113

114 NCSL believes that states should be allowed to negotiate the terms of EBT with food
115 marketers, farmers' markets, and financial institutions. NCSL opposes preemption of
116 state laws that govern financial institutions pertaining to a nationwide EBT system. As
117 additional income support programs are added to EBT systems that are state-only or
118 state-federally governed, the federal government must not preempt state benefits law.

119

120 ~~NCSL is concerned about the overestimation of savings by EBT systems. Currently, the~~
121 ~~federal government recoups savings by eliminating the creation, handling, and storage~~
122 ~~of paper coupons and through fraud reduction. NCSL discourages the federal~~
123 ~~government from over-promising savings to the states, especially those from fraud~~
124 ~~reduction, and urges further study of the impact of EBT on states. Many of the current~~
125 ~~systems are obsolete and barriers remain for states to combine their information~~
126 ~~systems across programs to increase efficiency of program delivery. This is especially~~
127 ~~problematic given current state fiscal conditions.~~

128

129 NCSL also encourages the administration and Congress to continue initiatives around
130 summer feeding and EBT to secure a permanent summer EBT program, including
131 adding monthly funding to family's EBT cards and including funding for state startup
132 costs.

133

134 **SNAP Program Flexibility and Waivers**

135 NCSL believes that the federal waiver process should recognize state participation and
136 need. States need flexibility for further innovation and state legislators prefer to have
137 options rather than waivers for policy changes that are not in need of further evaluation.
138 State legislators need to be included in the waiver process prior to a waiver being
139 granted. Plan approval and the results of demonstration grants should be shared with
140 state legislators.

141

142 **Emergency Food Assistance and Commodity Distribution**

143 NCSL urges Congress to fully fund The Emergency Food Assistance Program (TEFAP)
144 at its authorized level. NCSL believes that Congress should provide adequate
145 administrative funds to facilitate the efficient distribution of food, and should include
146 sufficient safeguards to prevent program abuse. NCSL urges the USDA to make
147 additional surplus commodities available to states, upon request, when additional
148 surplus food becomes available. We also urge the USDA to provide administrative
149 funding support for sorting, packaging, processing, and transporting donated food.

150 NCSL supports federal programs that deliver commodities through farmers' markets
151 and the child nutrition commodity programs.

152

153 **Child Nutrition**

154 NCSL urges Congress to reauthorize legislation to continue and fully fund child nutrition
155 programs. NCSL urges the USDA to emphasize the importance of nutritionally-
156 appropriate foods, and avoiding those high in sugar, fat, and
157 sodium.

158

159 Accurate eligibility determination is important in any federal program, but efforts to
160 ensure that only eligible children are served must not be a deterrent to program
161 participation. NCSL supports the USDA's proposal to create a pilot program for school
162 districts to provide more nutritious alternatives that would allow experimentation without
163 risk of financial loss to those schools.

164

165 **WIC**

166 NCSL supports the objectives of the WIC program to educate and inform participants
167 with the best sources of nutrition to reduce the incidence of low birth weight, improve
168 infant nutrition in the first year of life, and to improve the health of participants. NCSL
169 encourages the administration and Congress to ensure flexibility for the time it takes to
170 processing and approveing applications for WIC applicants ~~to be flexible~~ and ensure
171 continued financial support to maximize WIC coverage for women, infants, and children
172 in need.

173

174 NCSL supports congressional efforts to improve program administration by authorizing
175 limited borrowing between fiscal years for the WIC program, and by requiring the timely
176 apportionment of WIC funds to the states. NCSL supports funding to allow technological
177 improvements to WIC and to allow the implementation of WIC EBT.

178

179 **School Breakfast and Lunch Programs**

180 NCSL strongly supports the National School Lunch Program (NSLP) and the School
181 Breakfast Programs (SBP) as critically important to the well-being, education, and self-
182 sufficiency of young children. State legislators support ~~oppose~~ the ~~elimination of~~ cash
183 subsidies to schools for moderate- and high-income children under the provisions of the
184 school lunch and school breakfast programs. Additionally, NCSL encourages more
185 flexibility for community eligibility provisions (CEP), which help reduce paperwork for
186 parents and schools with a high percentage of eligible students.
187 The provision of federally-funded start-up grants would enable many schools with large
188 numbers of low-income children to initiate the school breakfast program. NCSL
189 recommends that a study be conducted that would consider alternative financing
190 scenarios that would retain program consistency. NCSL urges the USDA to emphasize
191 nutritionally-appropriate foods.

192

193 **Summer Food Service Program for Children (SFSPC)**

194 NCSL supports SFSPC and the restoration of meal reimbursement rates that allow low-
195 income children to receive a nutritious lunch in the summer. NCSL supports policies that
196 will make it easier for non-profit community groups and public entities to sponsor the
197 program, and will allow the program to be available in more neighborhoods and rural
198 areas.

199

200 **Child and Adult Care Food Program (CACFP)**

201 NCSL supports flexibility to allow seniors to transport uneaten food they receive while
202 participating in the Child and Adult Care Food Program (CACFP). Proposals to
203 eliminate or reduce this program ignore its valuable contribution to the expansion of
204 child care and reduction of childhood hunger.

205

206 NCSL strongly supports efforts to expand CACFP to older children in after-school
207 programs, and to ensure that the program is available in more neighborhoods and rural
208 areas. Additionally, NCSL supports state options to expand this critical program to
209 suppers in after-school programs.

210

211 **Combating Childhood and Adult Obesity**

212 NCSL supports federal efforts to find solutions for childhood and adult obesity without
213 imposing mandates. NCSL urges Congress to fully fund these programs and supports a
214 proposal to fund a pilot program for the states with the greatest incidence of childhood
215 and adult obesity to develop policies and procedures to reduce obesity.

216
217 ~~NCSL encourages Congress to establish a taskforce to study obesity and co-morbidities~~
218 ~~of SNAP recipients in high-risk, high-disparity populations. The taskforce should make~~
219 ~~recommendations that reduce the incidence of disease triggered by malnutrition,~~
220 ~~including policy reforms to SNAP that incentivize recipients to select foods with high~~
221 ~~nutritional value.~~

222
223 **Nutritional Quality Measures for Older Adults**

224 NCSL supports the quality measures used by the Centers for Medicare and Medicaid
225 Services (CMS) to quantify health care processes, outcomes, patient perceptions, and
226 systems that are associated with the ability to provide quality health care and/or that
227 relate to “quality goals” for health care. ~~These Medicare clinical quality measures are~~
228 ~~used to improve facilities’ treatment of patients, yet currently no quality measures have~~
229 ~~been adopted to address malnutrition. CMS introduced four electronic clinical quality~~
230 ~~measures that would cover screening for malnutrition, assessment of those screened as~~
231 ~~at-risk for malnutrition, diagnosis of malnutrition, and creation of a nutrition care plan.~~
232 ~~NCSL urges CMS to adopt quality measures on malnutrition to heighten the importance~~
233 ~~of identification, evaluation, and treatment of malnutrition in the elderly.~~

234
235 NCSL also supports establishing malnutrition care as a measure of quality health care.
236 NCSL urges the administration and Congress to support state efforts to reduce
237 malnutrition in the elderly and heighten awareness of nutrition in elderly communities.
238 ~~In 2016, CMS introduced four electronic clinical quality measures that would cover~~
239 ~~screening for malnutrition, assessment of those screened as at-risk for malnutrition,~~
240 ~~diagnosis of malnutrition, and creation of a nutrition care plan. NCSL urges CMS to~~

241 ~~adopt quality measures on malnutrition to heighten the importance of identification,~~
242 ~~evaluation, and treatment of malnutrition in the elderly.—~~

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SUPPORT FOR SENIORS AND PEOPLE WITH**
3 **DISABILITIES**

4 **TYPE: DIRECTIVE**

5 The development of a comprehensive approach to ~~provide-deliver~~ support services for
6 elderly persons and persons with disabilities is critical. Without ~~the development of~~ such
7 ~~a~~-system, long-term care expenditures will continue to overwhelm state and federal
8 health care budgets, limiting necessary expenditures for primary and preventive health
9 care.

10 NCSL supports:

- 11 • Sstates ~~should be given~~being provided new options for setting financial and
12 functional criteria to qualify for these services; ~~In addition, NCSL supports~~
- 13 • the development of expanded options for private long-term care insurance,
14 flexible life insurance products, and home equity sharing programs, such as
15 reverse annuity mortgages; ~~;~~
- 16 • NCSL also supports initiatives to provide incentives for employers to offer and for
17 individuals to establish health savings accounts and other innovative financing
18 options to pay for a broad range of supportive services; and
- 19 ~~— Finally, much of the care provided to seniors and persons with disabilities today~~
20 ~~is provided by family members. NCSL supports~~ efforts to assist family members
21 who are caregivers, including tax incentives and programs that provide support
22 services, such as respite care. ~~It is critically important to acknowledge the~~
23 ~~important role of family caregivers as part of the continuum of care in the~~
24 ~~provision of long-term care services and to provide needed support to maintain~~
25 ~~this important component of our long-term care infrastructure.~~

- 26 •

27 **Increasing Options for Home and Community-Based Care**

28 NCSL continues to support the development of more home and community-based
29 options under Medicaid to provide and integrate long term care services. NCSL
30 supports the federal government ~~States should be~~ encouraging states to develop
31 innovative programs to improve the long-term care system. NCSL urges the
32 Administration and Congress to work with states to develop assessment tools that will
33 help states better identify what level of services individual clients need and the most
34 appropriate settings for the client to receive care and. ~~These~~ assessments should be
35 made available to all elderly persons and persons with disabilities to help them plan for
36 their long-term care needs.

37 **Long Term Care Insurance**

38 ~~Recognizing consumers can potentially benefit from the purchase of long-term care~~
39 ~~insurance,~~ NCSL supports strong federal action to protect consumers of long-term care
40 insurance from predatory pricing or inadequate benefit plans. NCSL ~~also~~ urges the
41 Administration and Congress to speed the development of long-term care insurance as
42 a viable alternative or complement to Medicaid support for long-term care services. At
43 the same time, tax credits, partnership programs, and other incentives should not be
44 seen as a tool for reduced funding for Medicaid. While the states will continue to take
45 primary responsibility for the regulation of long-term care insurance, NCSL supports the
46 development and evaluation of programs and initiatives that would: (1) provide
47 preferential tax treatment for individuals who purchase qualified long-term care
48 insurance; (2) provide tax incentives for private employers and a Medicaid bonus
49 program for state and local government employers to encourage the them to offer long-
50 term care insurance as a benefit; and (3) encourage and provide incentives to
51 employers to offer long-term care insurance, as a condition of receiving federal benefits,
52 such as business tax credits;

53 ~~Administration for Community Living~~

54 ~~NCSL applauds the reorganizational effort within the U.S. Department of Health and~~
55 ~~Human Services (HHS) that provides supportive services to seniors and persons with~~
56 ~~disabilities into the Administration for Community Living. NCSL looks forward to~~
57 ~~continuing to work with HHS to improve community living services and supports for all~~

58 ~~who need them.~~

59 ~~The purpose of this consolidation is to: (1) reduce the fragmentation among federal~~
60 ~~programs that address the community living service and support needs of seniors and~~
61 ~~persons with disabilities; (2) enhance access to quality health care and long-term~~
62 ~~services and supports for all individuals; (3) to promote consistency in community living~~
63 ~~policy across other areas of the federal government; and (4) complement the~~
64 ~~community infrastructure, as supported by both Medicaid and other federal programs, in~~
65 ~~an effort to better respond to the full spectrum of needs of seniors and with disabilities.~~
66 ~~In addition to programs authorized by the Older Americans Act, the new entity includes~~
67 ~~the State Councils on Developmental Disabilities, the State Protection and Advocacy~~
68 ~~Systems and the Help American Vote Act program that provides grants to make polling~~
69 ~~places accessible to voters with disabilities.~~

70 **Alzheimer's Disease and Related Disorders**

71 NCSL supports continued federal ~~funding for research that will~~efforts that: (1) lead to the
72 development of new drug treatments; (2) assist in disease management; and (3)
73 improve the early diagnosis of these conditions.

74 ~~**National Plan to Address Alzheimer's Disease**—The Plan proposes to: (1) prevent~~
75 ~~and effectively treat Alzheimer's Disease by 2025; (2) optimize care quality and~~
76 ~~efficiency; (3) expand supports for persons with Alzheimer's Disease and their families;~~
77 ~~(4) enhance public awareness and engagement; and (5) track progress and drive~~
78 ~~improvement. The plan specifically calls for working with state, tribal and local~~
79 ~~governments to improve coordination and to identify model initiatives to advance~~
80 ~~Alzheimer's Disease awareness and readiness across all levels of government. The~~
81 ~~plan directs the U.S. Department of Health and Human Services to convene a meeting~~
82 ~~of state, tribal and local government leaders to develop a more concrete agenda. NCSL~~
83 ~~looks forward to assisting in this effort.~~

84

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: HEALTH INFORMATION TECHNOLOGY AND PRIVACY**

3 **TYPE: NEW DIRECTIVE** (combines two existing policy directives)

4 NCSL strongly supports a secure interoperable system of electronic health information
5 for the United States that:

- 6 • supports interoperability, not uniformity;
- 7 • makes security of the data a priority;
- 8 • provides strong consumer protections;
- 9 • establishes severe penalties for individuals or entities that compromise
10 information in the system; and
- 11 • makes every effort to make the system available and affordable to the widest
12 possible range of providers and consumers.

13

14 NCSL supports strong protections in circumstances where non-health care
15 professionals need access to personal health care data. This includes requiring law
16 enforcement representatives to have a court order to obtain information from an
17 individual's medical record, recognizing legal exceptions that exist. This also includes
18 retaining and strengthening existing research protocols and confidentiality standards for
19 health care researchers.

20

21 NCSL also supports the establishment of grant, loan and demonstration programs to
22 provide financial and technical support to health care providers, state and local
23 governments, and other entities that will play a key role in the development and
24 successful operation of an interoperable health information system. States must be
25 permitted to supplement federal financial support to physicians and hospitals with state
26 grant or loan programs for up to 100 percent of costs. It is critical that publicly financed
27 programs such as Medicaid and Medicare become active participants in the system and
28 that creating this capacity be a priority within the federal budget.

29 **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

30 Under the provisions of HIPAA, federal law supersedes state law, except when the
31 Secretary of the Department of Health and Human Services determines that the state
32 law is necessary:

- 33 • to prevent fraud and abuse;
- 34 • to ensure the appropriate state regulation of insurance or health plans; and
- 35 • for addressing controlled substances, or for other purposes.

36 NCSL supports a broad interpretation of this provision that would result in limited
37 preemption of state laws. Federal legislation should provide a floor, not a ceiling and
38 only preempt state laws that are less protective.

39 NCSL also supports:

- 40 • administrative simplification provisions of HIPAA. All affected entities, must be
41 afforded adequate time to implement changes to these provisions; and
- 42 • Federal and state governments sharing information; however, confidentiality of
43 medical records and information must be protected.

44 *With the approval of this new policy directive, two existing policy directives will sunset –*
45 *Health Insurance Portability and Accountability Act and Health Information Technology.*

46 **COMMITTEE: HEALTH AND HUMAN SERVICES**

47 **POLICY: GENERAL FUNDING PRINCIPLES: FEDERALISM AND**
48 **HEALTH, HUMAN SERVICES (HHS), MEDICAID AND**
49 **CHIP PROGRAMS**

50 **TYPE: RESOLUTION**

51 General Guiding Principles: Federalism and Health, Human Services (HHS), Medicaid
52 and CHIP Programs (Resolution)

53

54 **Guiding Principles:**

55 The underlying goal of the Medicaid program should be to achieve mutually agreed
56 upon goals, improved outcomes for patients, and flexibility in administration of programs
57 and savings for states, territories and local governments. NCSL supports accountability
58 and transparency from their federal partners and welcomes public feedback and
59 participation in Medicaid oversight and we also understand that flexibility requires
60 accountability and transparency on their part. We ask the federal government to
61 consider that not all state legislative sessions are on a year-round basis, and ask them
62 to be sensitive to state, territories and local governments' legislative schedules and
63 resources when making changes to Medicaid programs.

64

65 NCSL also urges Congress and the Administration to seek the counsel and expertise of
66 state and territory legislators as new Medicaid initiatives are being developed. It is
67 important that federal agencies take the state and territory consultation requirement
68 seriously when drafting legislation and regulations to implement changes. Federal
69 partners must give states a fair amount of time to review and ultimately implement any
70 new changes. We also caution against uniform proposals and changes as they can
71 compromise the effectiveness of programs by making it difficult for states and territories
72 to respond to local conditions.

73

74 **Medicaid Landscape:**

75 NCSL sees the following Medicaid issues as most pertinent to states, territories and
76 local governments:

77

78 **Block Grant and Cost Shifting Proposals:**

79 When Congress and the Administration are exploring block grant programs, flexibility
80 needs to be a key principle. Any proposals should refrain from establishing unfunded
81 mandates and any cost shifting requirements for implementing a block grant program in
82 states and territories.

83

84 **Waivers:**

85 NCSL supports Congress and the Administration in their ongoing efforts to grant
86 waivers, where appropriate, and in permitting states and territories to develop innovative
87 programs and service-delivery systems in health, and human services. Successful
88 waiver programs should be brought to scale and integrated into the underlying program
89 when appropriate and encourages federal efforts to streamline waiver applications,
90 reviews and approvals.

91

92 **Emergency Assistance and Countercyclical Assistance:**

93 NCSL urges Congress to study options to include a provision establishing emergency
94 and countercyclical assistance to states within the Medicaid statute. The provision
95 would become effective upon some triggering event, such as an economic downturn,
96 natural disaster, act of terrorism, pandemic or other public health emergency. In these
97 instances, it would be recommended to add any additional financial assistance to states
98 and territories through an enhanced federal match or some other mechanism that would
99 revert to the regular federal-state cost sharing formula when an emergency has been
100 resolved. This is a complex, but critical component to fiscal security for the Medicaid
101 program. NCSL looks forward to working with federal partners to identify options and
102 establish a program.

103

104 **Medicaid Managed Care:**

105 NCSL urges the Centers for Medicaid and Medicare Services (CMS) to work with states
106 and territories as stakeholders to continue to provide support in the operation and

107 upholding of quality standards for Medicaid managed care entities contracting with
108 states and territories.

109

110 NCSL encourages federal partners to recognize and support the work of states and
111 territories with their Medicaid managed care stakeholders in the following areas:

- 112 ▪ expanding care to those with complex medical needs,
- 113 ▪ improving reach and support for rural health care populations,
- 114 ▪ improving the implementation of patient-centered care and facilities,
- 115 ▪ increased integration of physical and behavioral health care services,
- 116 ▪ continued development of value-based purchasing and payments focusing on
117 health outcomes over number of services delivered, and
- 118 ▪ the role of community health centers, safety-net hospitals and academic
119 medical services in providing primary and emergency care for Medicaid
120 enrollees.

121

122 **Children’s Health Insurance Program (CHIP):**

123 As a partnership between the states and the federal government, CHIP is an essential
124 program that must be authorized on time as it provides health care coverage to
125 countless children across the country. NCSL ~~also~~ encourages the federal government to
126 continue providing flexibility to carry out the program’s operation. ~~Therefore,~~ NCSL
127 supports Congress’ multi-year authorization of CHIP funds moving forward.

128

129 As CHIP funding winds down from its previously increased Federal Medical Assistance
130 Percentages (FMAP) rate to participating states and territories, we encourage federal
131 partners to recognize states may require additional flexibilities for running the CHIP
132 program as a result. As these FMAP rates come back down to their original rates, and
133 the CHIP maintenance-of-effort (MOE) runs to ensure a source of health care cover for
134 children, NCSL recommends the following for the program:

- 135 ▪ support for states to develop and test systems of coverage for low-income
136 children and explore ways for states to share examples of best practices with
137 each other,

- 138 ▪ eliminate any burdensome waiting periods for CHIP enrollment to ensure a
139 reduction in gaps of coverage for children, and
140 ▪ continued efforts to streamline and facilitate the CHIP and Medicaid
141 application process.

142

143 **Principles for Federal Health Insurance Reform**

144 States should regulate health insurance and should continue to set and provide
145 oversight on insurance matters. NCSL opposes any proposals that would expand the
146 preemption of state laws and regulations beyond those already established in the
147 Employee Retirement Income Security Act of 1974 (ERISA), the Patient Protection and
148 Affordable Care Act (ACA), and that would exempt any insurer or entity from state
149 health insurance standards and laws. Federal health insurance legislation that
150 establishes mandated benefits or uniform standards, should have inclusive state
151 feedback prior to implementation, and work to establish standards that work for all
152 states.

153

154 **Implementations of Health Reforms at the Federal Level:**

155 Any implementation of health reforms at the federal level should require state action to
156 comply and must allow a reasonable amount of time for state legislatures to debate and
157 enact any necessary legislation for their constituents. Where states already have similar
158 legislation in place, a process for declaring "substantial compliance" should also be
159 developed. Federal partners should also recognize health insurance programs in the
160 states and territories are where innovations in health insurance and healthcare delivery
161 happen and to utilize states models of health insurance and care moving forward.

162

163 **Federal Demonstration Authority for States to Experiment with Innovative Health 164 Care Reform Initiatives**

165 NCSL supports federal initiatives to provide financial assistance and to authorize states
166 to experiment with innovative approaches to:

- 167 ▪ increase access to and affordability of health care services, including mental
168 health, to the uninsured or underinsured,

- 169 ▪ improve the quality and cost-effectiveness of our health care system and the
170 flexibility to test new models that do so,
- 171 ▪ increase access to the broad range of long-term care services including home
172 and community-based services (HCBS) that will enable constituents to live in
173 their own homes or communities that provide personalized and a high-quality
174 care,
- 175 ▪ support for health insurance plans that work to integrate physical, behavioral
176 and social determinants of health with the aim of reducing costs and improving
177 overall health outcomes for individuals, and
- 178 ▪ explore a broad range of approaches and financing mechanisms to improve
179 our health care system including reinsurance programs.
- 180 ▪ Allow states to continue their work on addressing issues which include but
181 are not limited to surprise medical billing, out-of-network and in-network billing
182 practices and transparency for health care prices and health insurance plans
183 and/or Certificate of Need regulated by states. This includes programs
184 providing patients with the information they need to be an active consumer in
185 healthcare pricing across providers and services. We also encourage federal
186 partners as they pursue any changes to medical billing practices to not
187 supersede states ongoing work or authority in state regulated health plans,
188 and to involve states in a timely way when drafting any potential changes to
189 medical billing practices and transparency along with adequate time to states
190 to implement any changes.

191

192 *Expires August 2022*

193

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: NCSL APPLAUDS GLOBAL HEALTH EQUITY WEEK,**
3 **OCT. ~~25-29, 2021~~24-28, 2022**

4 **TYPE: MEMORIAL RESOLUTION**

5 Global Health Equity Week 202~~1~~4, (GHEW) is an annual event that ~~took~~ will next take
6 place on October ~~24-28, 2022~~5-29, 2021. GHEW provides key public and private health
7 and information technology stakeholders an opportunity to convene around the country
8 in support of the advancement of health equity and to promote the value and potential of
9 health information and technology to transform the public's overall health and well-
10 being. Initiated in 2006 by HIMSS as National Health IT Week, Global Health Equity
11 Week has emerged as the culminating successor given the importance of health equity
12 to our national health improvement agenda. The week serves as a landmark annual
13 occasion for bringing together diverse global policymakers to affect change in the
14 following areas:

- 15 1. Maternal Health —~~2021 Global Health Equity Network Spotlight~~
- 16 2. Pandemic Response
- 17 3. Digital Literacy
- 18 4. Digital Health Equity
- 19 5. Public Health Data Modernization
- 20 6. Telehealth and Broadband Access

21
22 The National Conference of State Legislatures (NCSL) has worked closely with HIMSS
23 and other stakeholder organizations to promote understanding among state
24 policymakers of the contributions of health IT in meeting the quadruple aim for
25 improving health outcomes, the quality and safety of healthcare delivery, containing
26 healthcare costs, and improve the work life of health professionals. Moreover, NCSL
27 applauds HIMSS for elevating the value of health IT in addressing social determinants
28 of health through the annual Global Health Equity Week events. NCSL and other
29 stakeholders recognize the importance of health information technology and data to

30 ensure states become more resilient to public health threats like COVID-19, the opioid
31 crisis, natural disasters, and chronic diseases that greatly affect our most vulnerable
32 communities. NCSL and HIMSS support state actions to leverage health IT and data
33 systems to achieve these goals. For instance, broadband access and connected health
34 often lead to better health outcomes through the adoption of telehealth and digital
35 decision-making tools essential to empowering people to engage in their own care –
36 care that is value-based, secure, reliable, and that takes into account the social
37 determinants that drive improved outcomes and reduced health disparities.

38 NCSL encourages its members to observe Global Health Equity Week 2022 in
39 appropriate ways in their respective state capitals as well as in the Nation's Capital.
40 NCSL also encourages its members to advocate for their respective delegations to the
41 United States Congress to join in recognizing the benefits of health information and
42 technology as they act to improve healthcare for all citizens during Global Health Equity
43 Week and beyond.

44

45 *Expires August 2022*

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SUPPORTING REAUTHORIZATON OF THE CHILD**
3 **NUTRITION ACT**

4 **TYPE: RESOLUTION**

5 **WHEREAS**, state legislators are committed to ~~improving the~~ supporting our nation's
6 health, economy and national security and to combatting the negative impacts of
7 childhood hunger and food insecurity on their health, academic performance and overall
8 well-being ~~of America's children~~ through the ~~reauthorization of the~~ Child Nutrition and
9 WIC Reauthorization Act; and

10

11 ~~**WHEREAS**, federal child nutrition programs are critical for our nation's health, economy~~
12 ~~and national security; and~~

13

14 **WHEREAS**, regular access to healthy and affordable meals ~~has been proven to be one~~
15 ~~of the strongest predictors~~ is a predictor of improved school performance, improved
16 health and sound childhood development; ~~and~~

17

18 ~~**WHEREAS**, research shows that childhood hunger and food insecurity have a range of~~
19 ~~negative impacts on the health, academic performance, and overall well-being of~~
20 ~~children; and~~

21

22 ~~**WHEREAS**, school nutrition programs offer the opportunity to provide healthy food and~~
23 ~~improve dietary quality for students who may otherwise not eat; and~~ school meals in
24 particular, can have a positive impact on grades, absenteeism and tardiness among
25 students; and

26 ~~**WHEREAS**, school meals can also have a positive impact on grades, absences and~~
27 ~~tardiness among students; and~~

28

29 ~~**WHEREAS**, the COVID-19 pandemic led to a dramatic spike in the rate of children~~
30 ~~experiencing hunger and food insecurity, peaking at 18% of families with children reporting~~

31 ~~their household did not have enough to eat in December 2020 according to the Center on~~
32 ~~Budget and Policy Priorities, and also created challenges to safely accessing child nutrition~~
33 ~~programs; and~~

34
35 ~~**WHEREAS**, the COVID-19 pandemic has caused an ongoing increase in the scope and~~
36 ~~scale of children experiencing hunger and food insecurity with the most recent estimates~~
37 ~~from Feeding America showing that 13 million may face hunger in 2021 compared with the~~
38 ~~11 million who experienced hunger in 2019 according to USDA (an all-time low); and~~

39
40 ~~**WHEREAS**, substantial racial and ethnic disparities in food insecurity exist among parents~~
41 ~~of school-age children. Approximately 4 in 10 families with parents who are Hispanic/Latino~~
42 ~~(39.1%) and parents who are Black (40.8%) reported food insecurity in the prior 30 days,~~
43 ~~almost triple the rate of families with white parents (15.1%).~~

44
45 **WHEREAS**, the child nutrition programs are the front line of defense against childhood
46 hunger and food insecurity, promoting healthy eating and providing healthy, nutritious
47 food for millions of the nation's children through the National School Lunch Program
48 (NSLP), School Breakfast Program (SBP), Summer EBT for Children (SEBTC),
49 Pandemic-EBT, (P-EBT), the Community Eligibility Provision (CEP), and Special
50 Supplemental Nutrition Program for Women, Infants, and Children (WIC); and

51
52 ~~**WHEREAS**, millions of children depend on these programs, including the 21.5 million~~
53 ~~low-income children who participated in the school lunch program and the 12.4 million~~
54 ~~who participated in the school breakfast program in the 2018-2019 school year, as well~~
55 ~~as the 6.3 million mothers and children who received food and nutrition education~~
56 ~~through WIC and 2.8 million children who ate summer meals in 2019; and~~

57
58 ~~**WHEREAS**, the SEBTC Program reaches children who ~~most~~ need additional food~~
59 ~~support over summer ~~and school~~ breaks and is proven to reduce food insecurity among~~
60 ~~children; and~~

61

62 **WHEREAS,** ~~non-congregate meal delivery options were~~ critical during the COVID-19
63 pandemic, especially ~~critical in distributing meals to children~~ in rural and hard-to-reach
64 ~~communities, or where~~ and areas with transportation challenges ~~make it difficult,~~
65 offering a blueprint for programs more effective summer meals operations in the future;
66 and

67

68 **WHEREAS,** the Community Eligibility Provision (CEP) offers eligible schools the ability
69 to serve breakfast and lunch to distribute meals all students at a localized site; and no
70 cost, increasing food security and academic outcomes, while also allowing schools to
71 eliminate the collection of paper applications, reduce administrative costs, and
72 streamline meal service operations; and

73

74 **WHEREAS,** ~~the CEP program promotes equity and reduces stigma for families, and has~~
75 ~~been proven to reduce hunger and improve student outcomes; and~~

76

77 **WHEREAS, WHEREAS,** P-EBT, a temporary program providing a grocery benefit to
78 children who have lost access to free and reduced priced meals at school due to
79 COVID-19, has been highly effective at reducing food insecurity; and

80

81 **WHEREAS,** ~~a proven barrier to continued participation~~ persistent barriers prevent eligible
82 women and children from participating in the WIC Program is unavailability, including a lack
83 of- remote appointments, short certification periods, and lack of flexibility limited flexibilities
84 in food purchasing, ordering, and delivery; and

85

86 **WHEREAS,** ~~the Healthy, Hunger Free Kids Act of 2010 has improved the nutritional~~
87 ~~standards for school nutrition programs and as a result, kids have access to increased~~
88 ~~fruits, vegetables and whole grains but less sugars, fats and sodium, and that Congress~~
89 has the opportunity to ~~ensure that children continue to have access to nutritious and quality~~

90 ~~meals to help prevent childhood hunger and obesity; and~~

91
92 ~~**WHEREAS,** Congress has a unique opportunity to improve access and to child nutrition~~
93 ~~programs for millions of children, particularly those of low-income ~~children, thereby~~~~
94 ~~improving child nutrition, school readiness, and well-being, through the 2021 Child Nutrition~~
95 ~~Reauthorization (CNR) bill, by making permanent the COVID-19 waiver flexibilities that help~~
96 ~~to better reach children and by including provisions that would increase access and reach~~
97 ~~more kids through streamlining, reducing administrative burdens, and providing program~~
98 ~~flexibility, giving them the access to quality meals that they have during the school year;~~
99 ~~and~~

100
101 ~~**WHEREAS,** an adequately funded and evidence-based reauthorization bill can reduce~~
102 ~~childhood hunger and food insecurity in America, help reduce childhood obesity, improve~~
103 ~~child nutrition and health, and enhance healthy child development and school readiness;~~
104 ~~allowing children to reach their full potential; and Child Nutrition Reauthorization (CNR)~~
105 ~~process.~~

106
107 **NOW, THEREFORE, BE IT RESOLVED,** that the National Conference of State
108 Legislatures urges Congress to protect, strengthen and improve the child nutrition
109 programs through a Child Nutrition and WIC Reauthorization Act that builds on the Healthy,
110 Hunger Free Kids Act of 2010 to ensure that children continue to have access to nutritious
111 meals throughout the year; and

112
113 **BE IT FURTHER RESOLVED,** that the National Conference of State Legislatures urges
114 Congress to permanently authorize the operation of the SEBTC program, make
115 program funding mandatory and expand the reach of the program to kids eligible for
116 free or reduced-price school meals in all states, tribal nations and localities in order to
117 close the summer meals gap; and

118

119 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
120 Congress to allow for more flexibility around where children are able to access and eat
121 summer meals, by allowing for non-congregate models in communities where summer
122 meals sites are not available and lowering the threshold required to operate sites open
123 to all children; and

124

125 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
126 Congress to expand the well-documented benefits of CEP, ~~which allows schools to~~
127 ~~serve meals at no charge to all students if enough are identified as qualifying for other~~
128 ~~assistance programs~~, by lowering the minimum identified student percentage (ISP),
129 increasing the ISP multiplier, expanding direct certification with Medicaid data
130 nationwide, and supporting the improvement of direct certification systems; and

131

132

133 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
134 Congress to permanently authorize the ~~P-EBT~~PEBT system beyond the COVID-19
135 pandemic, allowing authorities to quickly deliver increased nutritional aid during ~~times of~~
136 ~~crisis~~declared emergencies; and

137

138

139 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
140 Congress to increase the ~~flexibility of WIC appointments cash value benefit for fruits and~~
141 ~~vegetables and support improved, equitable access to WIC~~ through ~~increased access to~~
142 ~~remote appointments and~~ extended certification periods ~~as well as to support equitable~~
143 ~~access to the WIC food package through and~~ modernization efforts ~~that increase access~~
144 ~~to like remote appointments~~, online ordering, ~~online and~~ purchasing, and delivery; and

145

146 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
147 Congress to invest in the ability and resources of states to provide access to healthy and
148 affordable meals before, during and after school for all children, all year long; and

149

150 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures urges
151 Congress to protect, strengthen and improve the child nutrition programs through a Child
152 Nutrition and WIC Reauthorization Act that builds on the Healthy, Hunger Free Kids Act of
153 2010 to ensure that children continue to have access to nutritious meals throughout the
154 year; and

155

156 **BE IT FURTHER RESOLVED**, that the National Conference of State Legislatures supports
157 the enactment of a Child Nutrition and WIC Reauthorization Act that ensures low income
158 children's improved access to and participation in child nutrition programs, ~~and, that it~~
159 ~~includes through~~ the policy goals stated above.

1 **COMMITTEE:** **HEALTH AND HUMAN SERVICES**

2 **POLICY:** **SUPPORTING FEDERAL LEGISLATION TO**
3 **EMPOWER STATES TO PROTECT CHILDREN**
4 **AND YOUTH IN RESIDENTIAL CARE**

5 **TYPE:** **NEW RESOLUTION**

6 **WHEREAS**, congregate care residential facilities include but are not limited to programs
7 such as wilderness programs, residential treatment facilities, psychiatric residential
8 treatment facilities, therapeutic boarding schools, special education schools,
9 intermediate care facilities for children with intellectual and developmental disabilities
10 and group homes; and

11 **WHEREAS**, an estimated 120,000- 200,000 children and youth are placed in residential
12 facilities each year by state child welfare and juvenile justice systems, mental health
13 providers, refugee resettlement agencies, school district special education programs,
14 and by parents; and

15 **WHEREAS**, the majority of these programs are not licensed by any health care agency
16 and as such the children are not protected by the licensure requirements imposed on
17 licensed health care providers; and

18 **WHEREAS**, some residential facilities still operate without any licensure at all; and

19 **WHEREAS**, many of these programs advertise treatment despite the lack of licensed
20 health care licensure or eligibility for Medicaid or private insurance reimbursement; and

21 **WHEREAS**, the current regulatory and licensure framework makes it difficult for state
22 agencies, parents and medical professionals to distinguish between high quality
23 evidence based facilities and dangerous programs that exploit youth; and

24 **WHEREAS**, an estimated \$23 billion dollars of public funds are annually used to place
25 youth in residential programs and facilities and the cost per child, per day for residential
26 treatment ranges from \$250-\$800; and

27 **WHEREAS**, many of these placements are funded solely by State General Funds or
28 private funds from parents and as such are not subject to the conditions of participation
29 under Medicaid or utilization review by commercial insurance; and

30 **WHEREAS**, children and youth are frequently placed in facilities outside their own state
31 of residence; and

32 **WHEREAS**, the placement of children and youth across state lines creates uncertainty
33 about jurisdiction, definitions of abuse and neglect and accountability measures for
34 individuals or entities that engage in abuse or neglect of children in residential facilities;
35 and

36 **WHEREAS**, state child welfare and juvenile justice agencies, journalists, and thousands
37 of residential congregate care facility survivors have reported pervasive physical,
38 emotional and sexual abuse, including hitting and choking, sexual assault, harassment,
39 grooming, food and/or sleep deprivation, solitary confinement, inappropriate and
40 punitive use of physical and chemical restraints, restricted access to bathrooms, forced
41 labor, the use of attack therapy, sexual shaming and/or forced sexualized behavior as
42 part of “treatment”; and

43 **WHEREAS**, news reports document more than 350 child deaths at these facilities and
44 there are additional deaths not reported to the media; and

45 **WHEREAS**, children and youth in many residential facilities are routinely prohibited
46 from communicating with parents, lawyers or child protection and advocacy agencies or
47 are subject to monitoring of such communications; and

48 **WHEREAS**, the 2008 Government Accountability Office report "Residential Programs:
49 Selected Cases of Death, Abuse, and Deceptive Marketing" found that “ineffective
50 management and operating practices, in addition to untrained staff, contributed to the
51 death and abuse of youth”; and

52 **WHEREAS**, the 2021 National Disability Rights Network's report showed that "Physical
53 abuse, often masked as punishment or a control tactic, is not uncommon in [residential

54 facilities]" and that "children in [residential facilities] report sexual assault at the hands of
55 staff"; and

56 **WHEREAS**, that same report found youth lacked "adequate access to clean water and
57 proper sanitation & have limited recreational space... and some youths report that they
58 are unable to obtain academic credit for education completed at [residential facilities],
59 putting them at a significant disadvantage upon return to their communities."; and

60 **WHEREAS**, the 2021 "Away From Home" study conducted by the nonprofit Think of Us
61 surveyed 78 youth with recent lived experience in residential placements who reported
62 that institutions failed to meet the mandate of child welfare, were carceral, punitive,
63 traumatic and unfit for healthy child and adolescent development; and

64 **WHEREAS**, the 2022 Government Accountability Office report "HHS Should Facilitate
65 Information Sharing Between States to Help Prevent and Address Maltreatment in
66 Residential Facilities," was conducted because "news media have reported several
67 incidents of youth being maltreated by staff employed at residential facilities... Little
68 information is publicly available about incidents of maltreatment in federally funded
69 residential treatment facilities for youth;" and

70 **WHEREAS**, the GAO subsequently recommended that the Department of Health and
71 Human Services, in consultation with the Department of Education, facilitate information
72 sharing among and between states on promising practices for preventing and
73 addressing maltreatment in residential facilities; and

74 **WHEREAS**, lack of clear national standards for licensing, oversight, abuse investigation
75 and child abuse definitions have left States without needed authority and necessary
76 information to appropriately oversee residential facilities for children and youth; and

77 **WHEREAS**, Senators Jeff Merkley (D-Oregon) and John Cornyn (R-Texas) and
78 Representatives Ro Khanna (D-California) and Buddy Carter (R-Georgia) will be
79 introducing federal legislation, currently referred to as the "Stop Institutional Child Abuse

80 Act” to assist states in protecting children and youth from abuse in residential facilities;
81 and

82 **WHEREAS**, states need access to information about best practices, facility safety and
83 quality and mechanisms to hold contractors to account for state funded services that fail
84 to meet contract standards and harm children and youth; and

85 **WHEREAS**, youth residential providers need clear and consistent nationwide standards
86 for accountability, oversight and quality service delivery to elevate the quality of services
87 for children and youth; and

88 **WHEREAS**, children and youth in residential facilities deserve basic protections against
89 all forms of abuse and neglect; access to an appropriate education and necessary
90 medical care; freedom from inappropriate physical, mechanical or chemical restraint;
91 freedom from solitary confinement, forced silence or restricted communication with
92 trusted caregivers including parents, state agencies, advocacy organizations and first
93 responders; and the freedom to report mistreatment anonymously without fear of
94 reprisal;

95 **NOW, THEREFORE, BE IT RESOLVED**, that the National Conference of State
96 Legislatures urges Congress to pass the bipartisan legislation currently referred to as
97 the “Stop Institutional Child Abuse Act” to provide children and youth with protection
98 from all forms of abuse and to empower States to demand accountability from providers
99 to whom they entrust their children through greater oversight, transparency and
100 accountability for residential care.

1 **COMMITTEE: HEALTH AND HUMAN SERVICES**

2 **POLICY: SUPPORT OF PERMANENT INCREASE IN FEDERAL**
3 **MEDICAL ASSISTANCE PERCENTAGE**

4 **TYPE: NEW RESOLUTION**

5

6 **WHEREAS**, the 2020 Families First Coronavirus Response Act provided, retroactive to
7 Jan. 1, 2020, each qualifying state and territory a 6.2 percentage point increase in the
8 Federal Medical Assistance Percentage, through the last day of the calendar quarter in
9 which the public health emergency (PHE) is declared by the Secretary of Health and
10 Human Services;

11 **WHEREAS**, it has been reported that state Medicaid agencies project the share of state
12 Medicaid spending will increase in fiscal year 2023 by 14 percent.ⁱ

13 **WHEREAS**, the 2021 non-emergency FMAP rates ranged from a low of 50 percent for
14 13 states to a high of 77.76 percent, not including the majority of the territories being at
15 83 percent;ⁱⁱ

16 **WHEREAS**, in 2021 the average non-emergency FMAP rate was 63.88, not including
17 the territories;

18 **THEREFORE, BE IT RESOLVED**, NCSL urges Congress to make permanent the 6.2
19 percentage point increase in the Federal Medical Assistance Percentages to each
20 qualifying state and territory.

21

ⁱ Kaiser Family Foundation, April 2022 (<https://www.kff.org/medicaid/issue-brief/medicaid-spending-and-enrollment-updated-for-fy-2022-and-looking-ahead-to-fy-2023/>)

ⁱⁱ MACPAC (<https://www.macpac.gov/wp-content/uploads/2018/04/EXHIBIT-6.-Federal-Medical-Assistance-Percentages-and-Enhanced-FMAPs-by-State-FYs-2019%E2%80%932022.pdf>)